

1 MICHAEL TERRIBILE  
2 3839 North 3<sup>rd</sup> Street  
3 Suite 400  
4 Phoenix, Arizona 85012  
5 (602) 254-5544  
6 State Bar No. 006725  
7 mterribile@jennagroup.com

SUPERIOR COURT  
YAVAPAI COUNTY, ARIZONA

2010 JAN 19 AM 9:10

JEANNE HICKS, CLERK ✓

Heather Figueroa

BY: \_\_\_\_\_

6 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
7 IN AND FOR THE COUNTY OF YAVAPAI

8 STATE OF ARIZONA,  
9 Plaintiff,

10 v

11  
12 S T E V E N C A R R O L L  
13 DEMOCKER,  
14 Defendant.

Case No. P1300CR20081339

**MOTION TO QUASH SUBPOENA**

(Assigned to Division 6)

15 Barbara Onan, through undersigned counsel, moves this Court to quash the  
16 subpoena issued on January 13, 2010, for the reasons stated in the following  
17 Memorandum.

18  
19 MEMORANDUM

20  
21 FACTS

22  
23 On this day, January 13, 2010, undersigned counsel received a FAXed  
24 subpoena at 1:29 P.M. That subpoena ordered the appearance of his client, Barbara  
25 Onon, in Division 6 of the Superior Court in Yavapai County the very next day,  
26 January 14<sup>th</sup>, at 9:00 A.M. and to remain there until excused.  
27  
28

1 This was the very first notice that either Ms. Onan or her counsel had that the  
2 state wanted her to testify at a pre-trial hearing.

3 Ms. Onan is a resident of Maricopa County.

4 Some months ago the Deputy County Attorney who issued this subpoena and  
5 undersigned counsel talked about the state's wish to have Ms. Onon testify at trial. At  
6 that time undersigned put the state on notice that any testimony would be contingent  
7 on an immunity agreement, as Ms. Onon intends to exercise her right to remain silent.

8 Since then no immunity agreement has been discussed, and neither counsel nor  
9 Ms. Onon has been provided with any such agreement.

10 It also worth noting that undersigned counsel has a doctor's appointment  
11 January 14<sup>th</sup>, in Phoenix.

12  
13 LAW

14  
15 Rule 45 [c][3]A] of the *Arizona Rules of Civil Procedure* provides that upon  
16 motion, the court, of the county in which the matter is proceeding, shall quash or  
17 modify a subpoena if it either "fails to allow a reasonable time for compliance"; or  
18 "requires the disclosure of privileged . . . matter". Subsection [a][1][D] provides that  
19 upon a written objection to a subpoena the served party need not comply with the  
20 subpoena until the court rules on the objection.

21  
22 ARGUMENT

23  
24 Serving a subpoena on a witness less than 24 hours prior to the required  
25 appearance, in a county other than the county in which the hearing is scheduled to take  
26 place, while on notice that the witness intends to exercise her right to remain silent is  
27 on its face unreasonable.

1 Ms. Onan was given no reasonable amount of time to reschedule her business  
2 appointments. And counsel was put in a position of canceling a medical appointment  
3 with less than a days notice.

4 Absent an immunity agreement Ms. Onon's appearance in court will accomplish  
5 nothing, as she intends to exercise her right to remain silent.

6  
7 CONCLUSION

8  
9 For the above stated reason, Ms. Onon moves this Court to quash the subpoena.

10  
11 RESPECTFULLY SUBMITTED this 13<sup>th</sup> day of January, 2010.

12  
13 MICHAEL TERRIBILE, P.C.

14   
15 MICHAEL TERRIBILE  
16 Attorney for Defendant Onon

17  
18 COPY of the foregoing  
19 faxed/mailed this  
20 13<sup>th</sup> day of January, 2010  
21 to:

22 Clerk of the Court  
23 YAVAPAI COUNTY SUPERIOR COURT

24 The Honorable Division 6 Judge  
25 YAVAPAI COUNTY SUPERIOR COURT

26 Joseph C. Butner III  
27 YAVAPAI COUNTY ATTORNEY

28 John Sears  
Attorney for Steven Democker



IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA,

Plaintiff,

v.

STEVEN CARROLL DEMOCKER,

Defendant.

No. P1300CR20081339

Division 6

SUBPOENA

*Duces Tecum*

EVIDENTIARY HEARING

TO: BARBARA ONON  
C/O MICHAEL TERRIBILE  
FAX 602-254-9263

YOU ARE HEREBY ORDERED to appear at 9:00 A.M. on January 14, 2010 at the Superior Court, Division 6 in the Yavapai County Courthouse, Prescott, Arizona, and to remain there until excused by the Judge conducting the proceeding, to give testimony on behalf of the State of Arizona.

YOU ARE FURTHER ORDERED to bring with you any and all documents, notes, memoranda and any other evidence pertaining to the defendant in this case.

Given under my hand this 13th day of January, 2010.

IF YOU FAIL TO APPEAR AS  
ORDERED, A WARRANT WILL BE  
ISSUED FOR YOUR ARREST

SHEILA SULLIVAN POLK  
YAVAPAI COUNTY ATTORNEY

by

JOSEPH C. BUTNER III  
Deputy County Attorney

PLEASE CALL (928) 567-7717 BETWEEN 4:00 AND 5:00 P.M. THE DAY PRIOR TO  
YOUR SCHEDULED TESTIMONY TO CONFIRM THE DATE AND TIME.

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CERTIFICATE OF SERVICE

The undersigned swears that he is qualified to serve this subpoena and did so by showing the original to and informing the witness of its contents and by delivering a copy thereof to him at \_\_\_\_\_, m. on \_\_\_\_\_, 200\_\_\_\_, at \_\_\_\_\_, Arizona.

\_\_\_\_\_  
Person Serving Subpoena